

**Hawai'i Communications Policy  
Remarks to the Public Utilities Commission (PUC)  
Docket Number 04-0140  
By R. Sean McLaughlin  
President & CEO, Akaku: Maui Community TV**

Aloha! Good evening Chair Caliboso and Commissioners, PUC staff, Consumer Advocate, interested parties and members of the public here assembled. My name is Sean McLaughlin and I am president and CEO of Akaku: Maui Community Television, sharing these remarks in support of diverse local communications media for Hawaii.

Akaku works with dozens of local public and private organizations and with national groups including the National Association of Telecommunications Officers and Advisors ([www.natoa.org](http://www.natoa.org)) and the Alliance for Community Media ([www.alliancecm.org](http://www.alliancecm.org)) to address the loss of diverse local media caused by media consolidation, and to advocate for public interests in Hawaii's communications media policies and regulations.

The simple point of these remarks is to offer our concerned perspective from Maui, Moloka'i, Lana'i and Kaho'olawe relating to communications resources for our high-cost underserved communities and to advocate for communications media access, especially for populations remote from Honolulu's political, economic and media market center.

With great appreciation for your presence here this evening, I ask that you continue to include public hearings for each of our island communities as part of future proceedings relating to State communications media policies. Our islands have unique perspectives and needs to consider as the PUC addresses basic principles of media law and regulation - including diversity, competition and localism.

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The PUC's review of ownership conditions for local telecommunications infrastructure must address the changing relationships between related communications providers in the marketplace of ideas today - including local broadcast TV and radio, satellite, cable and broadband media operators.

Taken in the context of the larger communications landscape, one point is very clear - unless Hawaii's PUC vigorously supports public interests, well-represented commercial interests will continue to shape the marketplace and game the regulatory framework to serve their private profit interests — not the common good, public interests of a healthy democracy.

**One way to promote locally-oriented communications is to ensure local and diverse ownership. Another way is to set aside communications capacity with adequate operating support for non-commercial, public service media in every local community.**

The commercial media marketplace does not and will not adequately support public interests, especially non-commercial speech. Consolidated ownership of communications media networks further reduces local content through the elimination of expensive local programs and services in favor of lower cost regional or national syndicated commercial enterprise. Development of robust local and non-commercial media is the most effective and immediate way to address shortcomings of the commercial marketplace.

Mandatory set asides to provide local communications media resources should be required as compensation for private and commercial use of public assets like land and spectrum.

In Hawaii, local access channels and core operating funds are provided directly from Time Warner to non-profit community-based access media organizations. Akaku services Maui and Kalawao Counties, while sister agencies Ho'ike for Kauai, Na Leo O Hawaii for Big Island and 'Olelo for Honolulu provide similar community access media services to those Counties. Sixty-five percent of cable franchise operating funds are allocated to each County's access media provider, the remaining thirty-five percent of cable franchise operating fees are directed to Honolulu-based PBS Hawaii and DCCA's regulatory offices.

Given the immediate future for broadband communications in Hawaii, a policy approach similar to local franchising of cable communications should be considered for broadband and IP-enabled media services offered by the telecommunications carrier of last resort.

In the process of ensuring local public resources, local governments could be given a greater share of both oversight and compensation for use of public rights of way, spectrum and other public resources that are being used by private communications utilities to serve their customers and profit their shareholders.

Through a locally accountable process, such as DCCA has constructed for community access TV, broadband wireline capacity and operating resources should also be set aside to benefit local communities and empower local voices.

**State and local governments need meaningful roles and well-defined vision to adequately protect communications consumers and to effectively advocate for local needs and interests to be met.**

way. The best way to ensure media localism and to enhance diversity is to dedicate communications resources for public interest purposes and to empower local communities to develop local media access on behalf of their citizens.

Beyond the common carrier services currently offered by Verizon, the next step into broadband and Internet Protocol (IP) services will bring Hawaii's telecom providers into direct "competition" with broadcast, satellite, Wi-Fi and cable communications providers.

A combination of public spectrum and public lands are being used to construct private commercial networks to offer integrated broadband IP enabled services.

So, it is important to remember that most of these related communications media, including the broadcast media, cable, satellite, and telecom providers and their subsidiaries are not free market industries.

For each of these electronic communications media, utilizing either public spectrum or public land, regulatory barriers have guided their structure to insure that public needs and interests are served. Public policy implementation, such as duopoly and cross-ownership rules were created to protect public interest requirements established for use of the public airwaves. Local broadcasters received their FCC license with little or no compensation to the public even though the spectrum bandwidth used by these broadcasters is a public resource.

For example, consider broadcast media operations, where private interests have bought and sold a public license so that the current license holder has paid a huge price for that license, providing a large profit to the seller, although the public itself does not get any benefit

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Preserving the public interest through common carriage over the communications infrastructure is essential to preserving localism and diversity in the marketplace of ideas. Members of the public, and especially residents of Neighbor Island Counties rely upon your leadership to support local non-commercial access to communications media for free expression, lifelong learning and civic engagement.

Please support communications capacity set asides for the public interest and locally governed resources for non-commercial community access to communications media.

By providing for free speech in the development of Hawaii's telecommunications infrastructure, the State can empower local voices through access to communications media.

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ADDENDUM:

Findings in S.2195 (1994)  
National Public Telecommunications Infrastructure Act of 1994<sup>1</sup>.

(1) The United States Government has consistently encouraged the development and dissemination of public telecommunications services in broadcast and nonbroadcast technologies through, among other things, the Public Broadcasting Act of 1967, the Public Telecommunications Financing Act of 1978, and the Public Telecommunications Act of 1992, wherein Congress found that 'it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies. . . '.

(2) The Government has a compelling interest in ensuring that all citizens of the United States have access to noncommercial governmental, educational, informational, cultural, civic, and charitable services through all appropriate telecommunications networks.

voices, viewpoints, and cultural perspectives, including access for members of the public whose voices are most likely to be excluded by private telecommunications carriers.

(11) Assuring access to a diversity of voices, viewpoints, and cultural perspectives over telecommunications networks benefits all members of the public who use telecommunications networks to disseminate or receive information.

(12) Government support and encouragement of a diversity of voices, viewpoints, and cultural perspectives over telecommunications networks furthers a compelling governmental interest in improving democratic self-governance, and improving and facilitating local government services and communication between citizens and elected and unelected public officials.

(13) Telecommunications networks make substantial use of public rights-of-way in real property and in spectrum frequencies.

(14) Because of the Government's compelling interest in ensuring broad and diverse access to telecommunications networks for the purposes of disseminating and receiving noncommercial educational and informational services, and in exchange for the use of public rights-of-way accorded telecommunications networks, it is appropriate for Congress (through the assertion of concurrent Federal jurisdiction over rights-of-way held or controlled by State or local governments) to require that owners and operators of telecommunications networks reserve capacity on such networks for public use.

(15) The least restrictive means to ensure that those members of the public whose voices are most likely to be excluded from telecommunications networks can access those networks is to require those networks to reserve a portion of their capacity for that access.

(16) It is in the public interest that reserved network capacity for public use be accompanied by funding to facilitate use of such capacity to provide noncommercial governmental, educational, informational, cultural, civic, and charitable services for the public.

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**National Association of Telecommunications Officers and Advisors**  
**NATOA 2003 POLICY PLATFORM STATEMENT**  
(www.natoa.org)

**NATOA Supports:**

**\* ... the effective and efficient use of all communications technologies including voice, video, data, and information services over wired and wireless transmission technologies.**

Local governments support implementation of Federal, State and Local laws and rules that encourage open and interconnective services and technologies that are universally available to all citizens.

Local governments have a vital role in determining the effective and efficient use of these communications services because much of this enabling infrastructure resides within their jurisdictions and is subject to unique local conditions.

**\* ... the development of effective local information infrastructures and institutional networks. Each community best understands its information, communications, economic development and security needs.**

Local governments must have the ability to require that voice, video, and data communication networks provide sufficient spectrum and resources to meet local community needs, to ensure the public's safety and convenience, and provide important and critical communication services.

Local governments must be empowered to develop, coordinate, operate and provide communications facilities and services. These must incorporate sufficient technological and financial support to provide the tools and the delivery mechanisms for a variety of applications, including wired and wireless telephony, video, data and Internet services.

**\* ... local authority to develop public, educational and governmental access channels, community programming, and related services.**

Local governments should foster an open communication systems that supports information and creativity shared throughout organizations,

institutions and the community as they are employing new and innovative multi-media communication tools. Local governments must have adequate resources available to enable the provision of information in a cost-effective, efficient and timely manner while staying abreast of new technologies.

**\* ... the fair and efficient allocation of radio spectrum that provides quality frequencies, free from interference, for all local public safety communication needs.**

Local governments and policy makers at all levels of government should consider the scarcity of radio spectrum both with regard to public safety and the financial burden its reallocation or modifications would have on local governments. Government needs should have priority in allocation of radio spectrum over private and commercial use.

**\* ... the orderly transition to a truly competitive communications marketplace.**

Local governments recognize that genuine competition can yield more programming and applications, improved and enhanced customer service, affordable rates for all and technology deployment that meets the needs of their communities now and in the foreseeable future. They also know that genuine competition may not develop in all communities or in all markets. Therefore, federal, state and local governments must work together to ensure that consumers are protected from possible market power abuses and to develop, through private and/or public resources, local information infrastructure and services that enable all segments of the community to participate in a global economy.

**\* ... local consumer service protections and consumer education efforts.**

Local governments should protect consumer interests by establishing and enforcing customer service standards and by promoting consumer education programs. All communications service providers, including cable and broadband, must give consumers complete and accurate information, including but not limited to, information about rates, services, privacy, billing methods, customer credits, and complaint resolution. All providers must work in good faith with local governments to establish consumer



education programs to inform customers about their rights and responsibilities. Providers should fully explain and give customers complete consumer protection information before the customer commits to a service contract, and service providers should use web sites, cable systems, mailings, and other useful means to continuously provide consumer education to customers throughout the provision of service.

**\* ... local government management of public rights-of-way and the right of local jurisdictions to govern land use and regulate zoning for all communications service providers and facilities without unnecessary state or federal intervention.**

Federal law, court decisions, and historical precedence all support local management of these scarce public resources. The public entrusts local governments to ensure that use of public rights-of-way by communications providers does not interfere with public safety, unnecessarily disrupt commerce, impede general transportation uses, or otherwise impose costs on the local government or its taxpayers.

Public rights-of-way represent property of tremendous economic value and paid for by local taxpayers. The public has a right to expect that its property, held and managed by the government as a public trust, is used efficiently and safely.

As trustees of our taxpayers, local governments should ensure that all private profit-making communications providers using public rights-of-way and other public property provide just and reasonable compensation for such use.

**\* ... diversity in media and telecommunications ownership and content.**

A democracy depends upon an educated and informed population. An educated and informed population depends upon the availability of a wide variety of opinions and viewpoints. The ability to control what is transmitted and what is received is inherent in ownership. Therefore, the concentration of media ownership in a few large companies poses grave danger to the freedom of expression guaranteed by the First Amendment.